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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,496	10/31/2000	John Border	81798/CEB	9832

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PATENT LEGAL STAFF
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EXAMINER

HECKENBERG JR, DONALD H

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 06/23/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/702,496

Applicant(s)

BORDER ET AL.

Examiner

Donald Heckenberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 19, 2003 has been entered.

2. Claim 1 recites "a molten plastic or a plastic preform" in lines 6-7. Claim 1 further recites "said solid plastic material" in lines 7-8. It is evident from the disclosure of the instant application that the reference to solid plastic material in lines 7-8 is the same molten plastic or plastic preform material referenced in lines 6-7. However, for clarity it would be better if the same terminology was used throughout the claim.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1 and 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "said first mold base having a first alignment member for cooperating with correspondingly aligned second alignment member in said second mold base" in lines 3-5. Claim 1 goes on to recite "wherein said second alignment member comprises a pair of spaced locating bushings tapered for lengthwise engagement with a pair of corresponding spaced tapered apertures in said second mold base" in lines 11-13. These two limitations require the second alignment member to be in two locations, that is, in the second base in lines 3-5, and in the first mold base in lines 11-13. The claim is therefore indefinite with respect to the second alignment member element.

Based on the disclosure of the instant application, it is believed that Applicant intends the first alignment member to correspond to the guide pins (88) shown in figure 9 of the drawings. Accordingly, the second alignment member referenced in lines 3-5 of claim 1 would correspond to the aperture in the second mold base in which the guide pins are inserted when the mold is closed (see figure 9). The second alignment member in the first base referenced in lines 11-13 corresponds to the

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tapered bushings (86). Therefore, claim 1 will be interpreted below as though reading "said first mold base having a first alignment member for cooperating with correspondingly aligned apertures in said second mold base" in lines 3-5, and lines 11-13 will be interpreted as written to correspond to the tapered bushings in the first mold base. Appropriate clarification and correction is required.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrickson et al. (U.S. Pat. No. 6,328,552) in view of Bohnenberger (U.S. Pat. No. 4,199,313).

Hendrickson discloses an injection molding apparatus. The apparatus comprises a first mold base (16) and a second mold base (14). The first and second mold bases have juxtaposed mold cavities for receiving the molding material (see figure 10). Hendrickson further discloses that the mold bases are used in a press assembly with platens (see column 4, lines 23-28).

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The first mold base of Hendrickson is provided with a first alignment member comprising a pair of spaced guide pins (70) for engaging a pair of corresponding spaced apertures (72) formed in the second mold base. The first mold base further comprises a pair of bushings (86) for engagement with a pair of spaced apertures in the second mold base (80).

Hendrickson does not disclose the bushings in the first mold base to be tapered or the corresponding apertures in the second mold base to be tapered. Hendrickson also does not disclose the mold cavities to be polygonal shaped.

Bohnenberger discloses a die assembly for injection molding comprising two mold bases (12 and 14). Bohnenberger teaches the assembly to have tapered bushings (30) in one of the mold bases, and corresponding tapered apertures in the other mold base (see figures 2-4). Bohnenberger notes that the bushing configuration allows for alignment of the mold dies upon moving the mold bases together (see column 2, lines 5-37).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified the apparatus of Hendrickson as such to have made the bushings in the first mold base and the corresponding apertures in the second mold base tapered because this would allow for alignment

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upon the mold bases being moved together as suggested by Bohnenberger.

Although Hendrickson does not disclose the shape of the mold cavity to be polygonal, Hendrickson does note that the shape of the cavity determines the shape of the molded part (see column 1, lines 14-21, and 46-48). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention that the shape of the molding cavity could be modified to be polygonal shaped because this would allow for a corresponding polygonal shaped product. Note, such a modification amounts to a mere change in shape of the apparatus, which is generally seen as obvious to one of ordinary skill in the art. In re Dailey, 357 F.2d 669, 672-73, 149 USPQ 47, 50 (Cust. & Pat. App. 1966).

It is noted that the claims of the instant application recite an intended use of the apparatus, specifically, to mold a microlens. It is well settled that the intended use of an apparatus is not germane to the issue of patentability of the apparatus. In re Casey, 370 F.2d 576, 580 152 USPQ 235, 238 (Cust. & Pat. App. 1967); In re Otto, 312 F.2d 937, 939, 136 USPQ 458, 459 (Cust. & Pat. App. 1963). In the instant case, the apparatus of Hendrickson and Bohnenberger suggest all of the

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apparatus structural elements of the claims, and therefore the claims are rendered obvious by the two references.

Claim 5 recites that the molding assemblage is a compression molding assemblage. The claim does not define any of the structures that make it a compression molding assemblage, and as noted above, the intended use of an apparatus is not germane to the issue of patentability. As also noted above, Hendrickson disclose the mold bases to be used with platens in a press (column 4, lines 23-28). Accordingly, the apparatus suggested by Hendrickson and Bohnenberger is a "compression molding assemblage" when operating in a press. Claim 5 is therefore rendered obvious by the references.

9. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

10. The following references are cited as being pertinent to the instant application:

Hallum (U.S. Pat. No. 338,226) discloses a molding apparatus with tapered bushings (see figure 3).


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MacDonald et al. (U.S. Pat. No. 3,694,122) discloses a molding apparatus with multiple alignment features (see figures 5-6).

Siepsier (U.S. Pat. No. 4,993,936) discloses a lens molding assembly with multiple alignment features (see figure 5).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Heckenberg whose telephone number is (703) 308-6371. The examiner can normally be reached on Monday through Friday from 9:30 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for responses to non-final action, and 703-872-9311 for responses to final actions. The unofficial fax phone number is (703) 305-3602.


Donald Heckenberg
June 17, 2003


JAMES P. MACKEY
PRIMARY EXAMINER
6/18/03